



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2011-0528; FRL-9906-60-Region 6]

Approval and Promulgation of Implementation Plans; Texas; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Standard Permit for Oil and Gas Facilities and Standard Permit Applicability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the revisions to the Texas New Source Review (NSR) State Implementation Plan (SIP) submitted by the Texas Commission on Environmental Quality (TCEQ) on September 20, 1995; April 19, 1996; July 22, 1998; and September 11, 2000. These revisions to the Texas SIP establish the Standard Permit for Installation and/or Modification of Oil and Gas Facilities. EPA is also approving non-substantive revisions to the Texas Standard Permit SIP rules relating to applicability, submitted on February 1, 2006, and March 11, 2011. EPA is taking these actions in accordance with section 110 of the Clean Air Act (CAA).

DATES: This final rule is effective on **[Insert date 30 days from date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2011-0528. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment.

FOR FURTHER INFORMATION CONTACT: Adina Wiley, Air Permits Section (6PD-R), telephone (214) 665-2115, e-mail wiley.adina@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

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I. Background

The background for today's action is discussed in detail in our December 24, 2013, proposal (78 FR 77261). In that notice, we proposed to approve four submittals from the State of Texas as revisions to the Texas New Source Review (NSR) State Implementation Plan (SIP) that incorporate the Standard Permit for Installation and/or Modification of Oil and Gas Facilities (hereafter referred to as the "Oil and Gas Standard Permit"). Texas initially submitted the Standard Permit provisions on September 20, 1995, and submitted subsequent revisions to those provisions on April 19, 1996; July 22, 1998; and September 11, 2000. The proposed approval and accompanying Technical Support Document explain the existing SIP-approved Standard Permit Program in Texas; give a summary of each of the submittals being addressed in this action; and explain how those submittals comply with the applicable federal requirements. The proposal further explains that the Oil and Gas Standard Permit includes standardized conditions for the emission units located at oil and gas facilities that may be authorized by the Standard Permit. If a proposed project at an oil and gas facility includes any emission units that are not explicitly covered by the Oil and Gas Standard Permit, the permit applicant must obtain another type of Standard Permit authorization, a permit-by-rule (PBR) or, if necessary, case-by-case NSR permitting for authorization.

In the December 24, 2013 proposal, we also proposed to approve submittals from the State of Texas as a revision to the NSR SIP that contain non-substantive changes to the applicability provisions of the Standard Permits SIP permitting program. Texas submitted revisions to the Standard Permit applicability provisions on February 1, 2006 and resubmitted them on March 11, 2011.

II. Response to Comments

We received comments from the Texas Commission on Environmental Quality (TCEQ) and the Texas Pipeline Association (TPA) on our December 24, 2013 proposal. The comments we received can be accessed from the *www.regulations.gov* website (Docket No. EPA-R06-OAR-2011-0528). Generally, both the TCEQ and TPA were supportive of our proposed action and expressed agreement with our analysis. However, each commenter provided the following information concerning our proposed rulemaking for which EPA would like to provide clarification.

Comment 1: The TCEQ notes that the commission adopts standard permits in an open meeting, for which notice is posted at least seven days in advance and which provides additional opportunity for public comment on the standard permit. Further, registration is required for the Oil and Gas Standard Permit.

Response 1: EPA acknowledges the TCEQ's support of our rulemaking and appreciates the additional information provided by the TCEQ regarding the rules and processes for implementing the Standard Permit program. We agree that, in addition to a public hearing, the TCEQ is required to adopt Rule Standard Permits in an open meeting and post notice of the open meeting seven days in advance of the event. The public meetings provided the public with an additional opportunity for public comment on the Oil and Gas Standard Permit as adopted and amended. EPA has prepared a Supplement to the Technical Support Document to include the clarification from TCEQ. This Supplement to the Technical Support Document is available in

our rulemaking docket, EPA-R06-OAR-2011-0528. EPA also recognizes that applicants must register the use of the Standard Permit.

Comment 2: The TPA commented that “Through incorporation by reference in TCEQ’s Non-Rule Standard Permit, the terms of the Oil and Gas Standard Permit continue to authorize existing and unchanged facilities throughout the State of Texas and new projects and dependent facilities in all Texas counties except for 15 counties located in the Barnett Shale area.”

Response 2: EPA acknowledges the support of the TPA for our rulemaking, but must clarify and correct that statement made in Comment 2 above. The Oil and Gas Standard Permit addressed in this action is a separate Minor NSR permit mechanism from the Non-Rule Standard Permit for Oil and Gas. While similar source categories are authorized under each, the Non-Rule Standard Permit for Oil and Gas applies only to the 15 counties in the Barnett Shale region. The Oil and Gas Standard Permit applies throughout the State of Texas, with the exception of the 15 counties, for the listed categories of sources. Additionally, Texas promulgated this Oil and Gas Standard Permit by regulation at 30 TAC 116.620, and it is not incorporated into the Non-Rule Standard Permit, which was developed through a separate process under the SIP.¹

III. Final Action

We are approving SIP submittals from the State of Texas for the Minor NSR Oil and Gas Standard Permit at 30 TAC Section 116.620 as submitted September 20, 1995; April 19, 1996; July 22, 1998; and September 11, 2000. The types of emission units that may be authorized by this section are the following: internal combustion engines (ICEs), natural gas turbines (NG

¹ Texas adopted the Non-Rule Standard Permit in accordance with 30 TAC Section 116.601(a)(2). EPA approved this process for Texas to adopt non-rule standard permits into the Texas SIP on November 14, 2003. 68 FR 64543.

turbines), flares, other combustion units (design heat input > 40 million BTU per hour), natural gas glycol dehydration units, storage tanks, separators, condensers, vapor recovery units, process vents, and process fugitives. We are also approving the submittals for the Standard Permit SIP rules making non-substantive changes to the Standard Permit applicability provisions in 30 TAC Sections 116.610(a) and (b) as submitted February 1, 2006, and resubmitted March 11, 2011. We are approving these SIP revisions in accordance with section 110 of the CAA.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60

days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 3, 2014

Ron Curry,
Regional Administrator, Region 6.

40 CFR Part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS – Texas

2. The table in §52.2270(c) titled “EPA Approved Regulations in the Texas SIP” is amended by revising the entry for 116.610 and adding a new entry for Section 116.620 immediately after the entry for Section 116.615.

The amendments read as follows:

§ 52.2270 Identification of plan.

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(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/Subject	State approval/ submittal date	EPA approval date	Explanation
* * * * *				
Chapter 116 (Reg 6) – Control of Air Pollution by Permits for New Construction or Modification				
* * * * *				
Subchapter F – Standard Permits				
* * * * *				

Section 116.610	Applicability	1/11/2006	[Insert date of <u>FR</u> publication] [Insert <u>FR</u> page number where document begins]	The SIP does not include subsection 116.610(d).
* * * * *				
Section 116.620	Installation and/or Modification of Oil and Gas Facilities	8/9/2000	[Insert date of <u>FR</u> publication] [Insert <u>FR</u> page number where document begins]	The types of emission units that may be authorized by this section are the following: <ul style="list-style-type: none"> • Internal combustion engines (ICEs), • Natural gas turbines (NG turbines), • Flares, • Other combustion units (design heat input > 40 million BTU per hour), • Natural gas glycol dehydration units, • Storage tanks, • Separators, • Condensers, • Vapor recovery units, • Process vents, and • Process fugitives
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